IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 57 OF 2005

Arashdeep Singh)
Age 24, Occ. Student,)
Armed Forces Medical College,)
Pune-411 040)..Petitioner

Versus

1. The Commandant, Armed Forces Medical)
College, Pune-411 040)

2. The Dean, Armed Forces Medical College,)
Pune-411 040)

3. The Director General,)
Armed Forces Medical College, Ministry of)
Defence, New Delhi.)

4. Union of India, through the Secretary,)
Ministry of Defence, North Block, New Delhi.)..Respondents

Mr. P.B. Shah for the petitioner.

Mr. N.D. Sharma for respondent Nos. 1 to 3.

Mr. S.S. Pakale with Mr. S.S. Sarkar for respondent no.4.

CORAM: **DALVEER BHANDARI, C.J.** &
S.A. BOBDE, J.
DATE: **FEBRUARY 22, 2005**.

ORAL JUDGMENT (Per Dalveer Bhandari, C.J.)

The petitioner has challenged the orders passed by the Commandant and the Director General of the Armed Forces Medical College dated 29th June, 2004 and 9th June, 2004 respectively, by which the petitioner has been removed from the service of the Armed Forces Medical College, Pune. The petitioner is also aggrieved because the respondent has directed him to pay Rs.7,50,000/- towards bond agreement for issuance of "No Objection Certificate" to him to start internship training in any other Civil Hospital.

2. The petitioner is a student of the Armed Forces Medical College, Pune and has been carrying on his medical education since 1999. The petitioner has to undergo internship for a period of one year before the petitioner can practice as a doctor. The petitioner has been removed from the service with the present respondents with effect from 9th June, 2004 on medical grounds due to Polysubstance Dependence ICDF 19.2. The petitioner's main grievance is that the respondents could not have revoked the bond when the petitioner is ready and willing to serve. It is also contended by the petitioner that there was no

provision for removal of any candidate from the respondents institution when the petitioner was ready and willing to undergo medical treatment. It is submitted that the code of conduct clearly specifies that the maximum period of rustication from the institute is six months only.

3. Pursuant to the notice issued by this Court, Lt. Col. Paraduman Singh, Professor and Head, Department of Bio-chemistry, Armed Forces Medical College, Pune has filed reply affidavit on behalf of the respondents. At the outset, it is mentioned in the reply that the petitioner has not approached this Court with clean hands. It is also alleged that the petitioner is guilty of making incorrect and wrong statements and many misrepresentations therein besides suppressing material facts. It is also urged that Clause 4 of the said bond states that a Medical Cadet will be declared to have become Non Service liability (NSL) in the event he being rendered medically unfit for commission due to any disease/disability detected at any time during the course or prior to commissioning or failing to have an attendance of 50% in two consecutive terms or fails to qualify the final examination within the period of seven years. Clause 5 of the said bond states that in the event of a Medical Cadet being removed from service liability, he shall

be liable to pay an amount calculated at the rate of Rs. 3 lacs per year or part thereof for the period from the date of admission to the College till the date of becoming a Non Service Liability subject to a maximum of Rs.15,00,000/- together with interest of the said money. Clause 6 states that a Medical Cadet who is declared a Non Service Liability on medical grounds, an amount of Rs.One lakh fifty thousand per completed year or part thereof for the period from the date of admission to the College till the date of becoming a Non Service Liability subject to a maximum of Rs.7,50,000/- together with interest on the said money is to be refundable. A copy of the said bond dated 28th July, 1999 executed by the petitioner has been annexed at Exhibit R-1 to the reply. It may be pertinent to mention that the bond money was revised to Rs.15,00,000/- with effect from July, 1999, which the petitioner has signed. The bond money was revised as per the recommendations of Work Study Group which went into details of direct and indirect expenditure incurred on the training, boarding and lodging facilities, cost of uniforms and text books provided to medical cadets during their course of four and half years. A care has been taken to keep the figure of expenditure at par with other medical colleges.

4. The bond executed between the petitioner and the respondents is a contract between the two parties, which is still intact and has not been declared as illegal and arbitrary. The petitioner was admitted to Command Hospital, Pune, on 23rd March, 2004 for psychiatric evaluation when he was suspected to be a case of drug abuse. He was hospitalised till 13th May, 2004 for a period of 51 days as he had become dependent on various drugs. His history revealed that he had been consuming alcohol, smoking tobacco and using cannabis and brown sugar over last few years. The petitioner has thus suppressed these facts knowingly to mislead this Court.

5. During the fifth year of his study, on 9th June, 2004, the petitioner was declared a Non Service Liability in view of the opinion given by the Professor and Head, Department of Psychiatry, AFMC, Pune dated 7th May, 2004. It is stated that the Medical Board proceedings to declare the petitioner Non Service Liability on medical grounds on his being diagnosed as a case of 'Polysubstance Dependence' were duly approved by the Director General, Armed Forces Medical Services, New Delhi, vide their letter No. PC/AFG-

4772/129/DGAFMS/DG-ID dated 9th June, 2004. It is further submitted that the petitioner had been dependent on alcohol, cannabis and opioids. This disease is notorious for relapse any time in future. In view of this, according to the respondents, the petitioner, if commissioned as an officer in Armed Forces, is likely to be an easy prey to the enemy for purchase against supply of drugs to him, thereby making the national security susceptible to treachery. It is submitted that the petitioner cannot be permitted to start his internship training in the hospitals of Armed Forces because the internship seats are only meant for uniformed doctors who have been commissioned into Armed Forces. These seats have been specifically allotted to various hospitals of Armed Forces by the Medical Council of India, New Delhi on the recommendations of the University of Pune. Over this, AFMC, Pune or the office of the DGAFMS has got no regulatory authority. The petitioner cannot be commissioned into Armed Forces because of the reasons enumerated above. It is also mentioned in the reply that after declaration of Non Service Liability, the petitioner was required to pay the expenditure incurred on his tuition fees, messing and hostel rent, etc. as applicable to Non Service Liability candidates as stipulated in the aforesaid bond. A sum of Rs.7,50,000/- has been arrived at as per

clause 6 of the aforesaid bond dated 28th July, 1999 executed by the petitioner which states that the amount is to be calculated at the rate of Rs. One and half lacs per year or part thereof for the period from the date of admission to the College till the date of becoming a Non Service Liability limited to a maximum of Rs. Seven and half lacs. It is submitted that the petitioner was admitted to the College in the year 1999 and he was declared a Non Service Liability in the year 2004. Therefore, for five years i.e. at the rate of Rs.1.5 lacs per year, comes to Rs.7.5 lacs. According to the respondents, this amount is not a penalty or compensation being charged from the petitioner, but just the expenditure incurred by the Government. The amount could have been much higher, had the petitioner studied in any other medical college. It is submitted that the petitioner is also required to pay the bond money as per the bond executed by the petitioner.

6. According to the respondents, the order dated 18th November, 2002, passed by a Division Bench of this Court does not apply to the present case because the said case pertains to the pre-1999 period when bond money was only Rs. 3 lacs which was subsequently revised to Rs.15,00,000/- in the year 1999 as applicable to the present

petitioner. It is submitted that the orders of this Court dated 25th August, 2004 passed in Writ Petition No. 6104 of 2004 and dated 24th June, 2004 passed in Writ Petition No. 5088 of 2004 have been challenged by the respondents in the Apex Court in Special Leave Petition (Civil) Nos. 25514 of 2004 and 12044 of 2004 respectively, which are still pending before the Apex Court. The Apex Court, after considering the merits of the case, has issued notices in the Special Leave Petitions filed by the respondents.

7. It is stated by the learned counsel for the respondents that selection to this course is extremely difficult, and out of more than one lakh candidates who had applied for, only about 100 candidates have been selected. This is one of the most prestigious courses of the Armed Forces. It is, indeed, most unfortunate, because the petitioner has deprived other candidates of making great career and he himself wasted his life by becoming a drug addict, regularly consuming cannabis and brown sugar. He became an acute patient of Polysubstance Dependence ICDF 19.2. In case any candidate is afflicted by a major disease, one can legitimately have sympathy for such a person; but anyone who deliberately spoils his life by becoming

a drug addict, certainly, is not entitled for any indulgence. The petitioner ought to have considered that he is going to be an Officer of a disciplined organisation, where he is bound by certain norms. The respondents are justified in having the apprehension that a Commissioned Officer in the Armed Forces would likely to be an easy prey to the enemy. At any time, his weakness can be exploited by the apprehension that the enemy can purchase him by supplying some drugs, and thereby making the national security susceptible to treachery. Such an officer would be a liability to the Armed Forces and the nation. Any misplaced sympathy would be disastrous for the discipline of the Armed Forces. Such an officer, at any point of time, is likely to become a national liability. The discipline in the Armed Forces is absolutely imperative and no compromise can be made as far as the discipline in the Armed Forces is concerned.

8. Despite all these lapses of the petitioner, the respondents have not imposed any penalty on him; but merely asked to repay the actual amount spent on his tuition fee, mess charges, hostel rent, etc. as applicable to a Non Service Liability candidate, as enumerated in the bond executed by the petitioner.

9. We are of the considered view that any interference by the Court in a matter of this nature would demoralise the morale and discipline of the respondent-institution. It is also necessary that this must serve as an example for other students who may not, in future, be tempted to indulge in consuming cannabis and brown sugar. All the students studying in the respondent-institution must realise that a poor nation is spending huge amount of money in training them and it is their bounden duty to adhere to the norms, traditions and ethics of the respondent-institution. The petitioner is one of the fortunate few who has been selected out of lakhs of candidates. He cannot be permitted to betray the implicit confidence reposed on him by the respondent-institution.

10. On a consideration of the totality of the facts and circumstances, in our considered view, no interference is called for in the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

11. This petition, being devoid of any merit, is accordingly

dismissed.

CHIEF JUSTICE

S.A. BOBDE, J.